

MAIN MOTION BY FINANCE COMMITTEE AS AMENDED BY  
WHEATLEY/GIBBS/READE, ADOPTED BY MAJORITY VOICE VOTE:

Moved that the Home Rule petition set forth below be presented to the General Court, that the town's representatives in the General Court be requested to introduce legislation set forth below, and that the General Court be authorized, with the approval of the Nantucket Board of Selectmen, to vary the specific text of the requested legislation within the scope of the public policy objectives of the Home Rule Petition set forth below:

Nantucket Sewer Act

Section 1. The Town of Nantucket, acting by and through the Nantucket Sewer Commission described in Section 3, may layout, plan, construct, maintain and operate a system or systems of common sewers for a part or whole of its territory, as may be from time to time defined and established by adoption by town meeting of one or more bylaws as a designated Sewer District under the jurisdiction and control of the Sewer Commission, with such capacity limitations, connections, pumping stations, treatment plants and other works, as may be allocated in such bylaw to such Sewer District as required for a system or systems of sewage treatment and disposal, and may construct such sewers and related works in said Sewer Districts defined and established by bylaw as may be necessary. No other sewers shall be constructed in any public roads or ways of the Town which are not within the limits of such designated Sewer Districts and which are not under the control of the Sewer Commission.

Section 2. Said town may make and maintain, within Sewer Districts defined and established as set forth in section 1 of this Act in any way therein where common sewers are constructed, such connecting sewers within the limits of such way as may be necessary to connect any estate which abuts upon the way within such District.

Section 3. Notwithstanding the provisions of Sessions Law, Chapter 169 of the Acts of 1965 as amended by Sessions Law Chapter 359 of the Acts of 1987 entitled "An Act Authorizing the Town of Nantucket to Establish a Board of Public Works Exercising the Powers of certain other Boards, Commissions, Departments and Town Officers", said town may, at any town meeting, by a two-thirds vote, vote that the board of selectmen shall act as a Nantucket Sewer Commission, or that there shall be a separate Nantucket Sewer Commission the members of which shall be appointed by the Board of Selectmen or elected by popular vote for three year terms. The number, constitution and the choice of elected or appointed commissioners of a separate Sewer Commission shall also be determined by a two-thirds vote of Town Meeting. If a separate Nantucket Sewer Commission is established by Town Meeting, any Selectman shall be eligible to serve as a member thereof. Town Meeting shall be authorized to change the method of establishment of the Nantucket Sewer Commission described herein without any limitation on the number of times such Commission may be established or re-established as the case may be, by a two-thirds vote. Whenever the phrase "Nantucket

Sewer Commissioners” occurs in the Act, such phrase shall include within its meaning either the Board of Selectmen acting as Nantucket Sewer Commissioners, or the separate appointed or elected Nantucket Sewer Commission.

Section 4. The Nantucket Sewer Commission, acting for and on behalf of said town, shall have charge of and shall be responsible for the policies, finances, and overall goals of the sewer system, but shall be subject to the Town Charter, S.L. 289 of the Acts of 1996 as to the administration and management of the systems operation and maintenance, and shall be responsible for the good order of all sewers, pipes, pumping stations, treatment and disposal works, and the like. The operations of the Nantucket Sewer Commission shall be governed by, and any staff or employees shall be considered part of Town Administration within the meaning of, the Charter of the Town of Nantucket, S. L. Ch. 289 of the Acts of 1996, unless changed or modified pursuant to said Charter.

Section 5. The Board of Selectmen acting for and on behalf of said town, after being duly authorized to do so by town meeting, may take by eminent domain pursuant to chapter seventy-nine of the General Laws of the Commonwealth, or otherwise may, utilizing the procedures described in the Nantucket Charter, S. L. Ch. 289 of the Acts of 1996, acquire by purchase, or gift any lands, rights of way easements public or private in said town necessary for accomplishing any purpose mentioned in this Act and may construct such sewers under or over any state road, any bridge, pier, tidelands, boulevards or other public way, or within the location of any state land, without the necessity for any formal filings in the registry of deeds, and may enter upon and dig up any private land or any public land or public way, for the purpose of laying such sewers and of maintaining and repair of the same, and may do any other thing properly or necessary for the purposes of this Act.

Section 6. The financial operations of the sewer system shall be an Enterprise Fund within the meaning of G. L. Ch. 44, s. 53F½, except as modified herein, and any expenditure from such Fund shall be only upon authorization of the Nantucket Sewer Commission. The town shall, by vote at town meeting, determine whether it shall pay the whole or a portion of the cost of said system or systems of sewerage and sewage disposal, and if a portion, what proportion. If the town votes to pay less than the whole cost, in providing for the payment of the remaining portion of the cost of said system or systems, the town, acting through the Nantucket Sewer Commission, may avail itself of any or all of the methods permitted by the general laws; and the provisions of said general laws relative to the assessment, apportionment, division, reassessment, abatement and collection of sewer assessments or the additional methods set forth in Section 8 of this Act, and as to liens therefore and to interest thereon, shall apply to assessments made pursuant to this Act by the Nantucket Sewer Commission, except that interest shall be at the rate as may be established by the Nantucket Sewer Commission from time to time.

At the same meeting at which town meeting determines that any portion of the cost is to be borne by the town, it may by vote determine by which of such methods the remaining portion of said cost shall be provided for.

The collector of taxes of said town shall certify the payment or payments of any such assessment or apportionments thereof to the Sewer Commission or to the Selectmen acting as such, who shall preserve a record thereof.

Section 7. The revenues received by the Fund described in section 6 of this Act from sewer assessments, fees, charges, contributions from the Town towards the costs of such sewer system as described in section 6, and the like as receipts or revenues, shall be applied to the payment of charges and expenses incident to the design, construction, maintenance, and operation of said system or systems of sewerage and sewage disposal or to the extensions thereof, to the payment of principal or interest upon bonds or notes issued for sewer purposes, or to the payment or redemption of such bonds or notes.

Section 8. The Nantucket Sewer Commission may, in its discretion, prescribe for the users of said sewer systems and disposal works such annual charges, connection fees, assessments, privilege fees, and the like, based on the benefits derived therefrom as such Sewer Commission may deem proper, subject however, to such Bylaws as may be adopted by vote of the town, or as may be provided for in the general laws. Notwithstanding any law to the contrary, the Commission is authorized to impose and collect such charges, fees, or assessments prior to connection or operation of such system of sewers, and may enter into agreements for the payment thereof over such time as the Sewer Commission shall determine. In fixing the charges to be imposed for said system, the Nantucket Sewer Commission is authorized to make use of any fee, charge, assessment or betterment provided for by the general laws and further in addition thereto may take into consideration all costs for on going removal of infiltration and inflow of non-wastewater into the system as part of the normal operating costs of the system; may include in setting privilege fees, capital costs and interest charges applicable thereto; may impose late fees for unpaid billings; may assess a capacity utilization fee to new estates and properties added to a Sewer District authorized by this Act from outside a designated needs area in addition to any privilege fee; may charge betterments, special assessments, or any other charge to the estates and properties being served by collection system improvements and extensions to pay for all costs for sewer line extensions to serve new connections, both within the Sewer Districts authorized by the Act, and in any areas added to such sewer district, and may impose such charges on properties within a Sewer District authorized by the Act whether or not such estates and properties are then connected to the sewer system.

Section 9. The Nantucket Sewer Commission may, from time to time, adopt and prescribe rules and regulations for the means of connection of estates and buildings with sewers and for inspection of the materials, the construction, alteration, and use of all connections entering to such sewers, but not including the expansion of districts except as provided in section 1 and 10, and may prescribe penalties, not exceeding

three hundred dollars for the violation of any such rule or regulation. Such rules and regulations shall be available for public review at the Sewer Commission's designated office during regular office hours. Any changes, deletions, additions or revisions to said rules and regulations deemed necessary by the Nantucket Sewer Commission from time to time shall take full effect after a notice of change has been published at least once a week for two successive weeks in a newspaper of general circulation in the Town of Nantucket, which notice shall detail where and when such revised rules and regulations may be viewed by the general public.

Section 10. Notwithstanding any provision of law to the contrary, owners of land not within the Sewer Districts defined and established pursuant to Section 1 of this Act shall not be permitted to connect to the town's sewer system except as is set forth in this Act. The territory covered by said Sewer Districts may be amended from time to time by the board having charge of sewers, after a public hearing conducted to consider such amendment, upon approval of the department of environmental protection if otherwise required by law and upon enactment by Town Meeting of a bylaw defining or establishing a new **or** expanded Sewer District. In the event that the Board having charge of sewers votes not to amend the territory of any Sewer District in accordance with the foregoing sentence, the amendment may nevertheless be enacted in a form of a bylaw upon a two-thirds vote of town meeting.

Any bylaw adopted pursuant to the authority granted to the Town of Nantucket by this Act may include authorization to the Nantucket Sewer Commission without a Town Meeting vote to add to the Sewer Districts created pursuant to this Act properties located within "needs areas" as defined by Nantucket's Comprehensive Wastewater Management Plan prepared by Earth Tech dated March 2004, approved by the Massachusetts Secretary of Environmental Affairs on May 14, 2004, with such conditions and limitations with respect to such authorization as such bylaw may provide.

Section 11. Notwithstanding anything to the contrary contained herein, the board having charge of the maintenance and repair of sewers may at any time permit extensions, new connections or increases in flow to the sewer system, subject to capacity, to serve municipal buildings or public restrooms without thereby creating any entitlement on the part of any person to connect to such sewer system, and subject to capacity, in order of application, may permit or if in the public interest, may require, extensions, new connections or new flow to the sewer system within such districts.

Section 12. This Act shall take effect on the first day of July, first following passage.